

ESTATE PLANNING “FINANCIAL LITERACY”

By Barrett R. King, Member

King Hall LLC

5300 Dorsey Hall Drive, Suite 107

Ellicott City, Maryland 21042

410-696-2405

barrett@kh.legal



Understanding the Estate Planning Process

WHY PLAN?

WHY DO MOST
ESTATE PLANS FAIL?



Purpose of Estate Planning



Why Plan?

To provide certainty for loved ones

Facilitate smooth administration of estate

Minimize cost of administration

Asset protection – for spouse, children or grandchildren

Minimize or eliminate taxes

Achieve your special purposes

To attain your definition of Estate Planning



KING | HALL
LEADING FIDUCIARY REPRESENTATION

Avoiding Estate Plan Failure



**VIEW ESTATE PLANNING
AS A THREE-STEP
PROCESS**

**I. DESIGN AND
IMPLEMENTATION**

**II. MAINTENANCE AND
UPDATING**

**III. FINAL
ADMINISTRATION**

Definition of Estate Planning

Estate planning is about: _____
of your property the way that you want, to the
_____ or _____ of your
choice, at the lowest possible _____.



Probate vs. Non-Probate Analysis

WILL

- Subject to Probate Process
- Public Oversight
- What Assets are Subject to Probate?
- Probate Process
 - Open Estate
 - Inventory (3 months)
 - Claims to Creditors (6 months from DOD)
 - Accounting – Income, Expenses, Debts, Taxes
 - First Administration Account (Final?)
- Cost of Probate - (4 – 7%)*
- Will Structure



Will-Based Structure



Probate vs. Non-Probate Analysis

REVOCABLE TRUST

- Avoidance of Probate*
- What is a Revocable Trust?
 - Private Document (contract)
 - Development/Implementation
- Funding
- What a Revocable Trust is Not
 - No Creditor/Asset Protection
 - No Tax Savings
- Trust Administration
- Cost of Revocable Trust (1–2%)
- Revocable Trust Structure



Revocable Trust-Based Structure

Revocable Living Trust



KING HALL
LEADING FIDUCIARY REPRESENTATION

Understanding Non-Probate Transfers (Devices)

JOINT OWNERSHIP

BENEFICIARY
DESIGNATIONS

LIFE ESTATE DEEDS

TRANSFER ON DEATH
DESIGNATIONS (TOD)

PAYABLE ON DEATH
DESIGNATIONS (POD)

ITF ACCOUNTS (IN TRUST
FOR)

Non-Probate Devices

Will or Revocable Trust



Joint Ownership	→	Passes to Surviving Joint Owner
Payable on Death (POD)	→	Passes to Beneficiary
Transfer on Death (TOD)	→	Passes to Beneficiary
Beneficiary Designation (retirement plans, annuities, life insurance)	→	Passes to Beneficiary
In Trust for Accounts (ITF)	→	Passes to Beneficiary
Life Estate Deeds	→	Passes to Remainderman

Best Plan in the World

Joint Ownership

Surviving Joint Owner

- Payable on Death (POD)
- Transfer on Death (TOD)
- Beneficiary Designation
- In Trust for Accounts (ITF)
- Life Estate Deeds

**Will or
Revocable
Trust**

Beneficiary/Remainderman



KING | HALL
LEADING FIDUCIARY REPRESENTATION

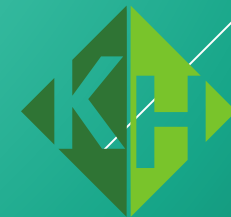
FUNDING IS KEY to Estate and Elder Law Planning

Understanding the Nuances of Incapacity Planning

POWERS OF ATTORNEY

**ADVANCE MEDICAL
DIRECTIVE**

**MOLST – MEDICAL
ORDERS FOR LIFE
SUSTAINING TREATMENT**



KING | HALL
LEADING FIDUCIARY REPRESENTATION

Incapacity Planning

Powers of Attorney

Maryland Statutory Power of Attorney
Durable General Power of Attorney

Advance Medical Directive

MOLST
Healthcare Decision Making Worksheet

~~GUARDIANSHIP~~



KING HALL
LEADING FIDUCIARY REPRESENTATION

Avoidance of Guardianship



KING | HALL
LEADING FIDUCIARY REPRESENTATION

Effectiveness of Power of Attorney

Access to Power of Attorney

Durable General Power of Attorney ---- Effective Immediately

You (Principal) → Your Attorney-in-fact ---- Power Immediate →

Durable General Power of Attorney with Escrow

You (Principal) → Your Attorney-in-fact ---- Power Immediate →

Springing or Contingent General Power of Attorney

You (Principal) → Your Attorney-in-fact ---- Power Not Effective Until Principal's Disability →

Health Care Decision Making

ADVANCE MEDICAL DIRECTIVE

- **Attorney General's Form:** recommended only
- **No required format:** no limitations
- **Personal Input:** important considerations
 - Personal preferences
 - Food, entertainment, visitations, communications, lifestyle
 - Appointment of agents
 - Effectiveness of power
 - End of life decisions (living will)
 - Flexibility options – can my agent change my decisions?
(if they think another option is better?)
 - Organ donation options
 - Final arrangements (celebration of life options)



KING HALL
LEADING FIDUCIARY REPRESENTATION

MOLST

Medical Orders for Life Sustaining Treatment



- Effective July 2013
- Relates To *Current* Medical Condition
- Health Care Decision Making Worksheet
- Attorney General's Publications

Long-Term Care and Medicaid Considerations in Estate Planning and Elder Law Myth vs. Fact

ESTATE PLANNING VS.
ELDER CARE PLANNING—
WHAT IS THE DIFFERENCE?

ASSET PRESERVATION?

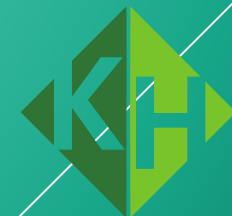
FLEXIBILITY?

DIVESTMENT OF ASSETS?

INCOME, CONTROL, AND
HITTING SEVERAL BIRDS
WITH ONE STONE

MEDICAID

VETERANS BENEFITS



KING HALL
LEADING FIDUCIARY REPRESENTATION

Estate Planning in a New Environment of Rising Estate Tax Exemptions and Portability

UNPRECEDENTED
EXEMPTION AMOUNTS

MARYLAND PLANNING

PORTABILITY

USE OF THE DECEASED
SPOUSE'S UNUSED
EXEMPTION AMOUNT
(UNDERSTANDING THE
DSUE)

MARITAL CONTROL?

REMARRIAGE
PROTECTION?



KING | HALL
LEADING FIDUCIARY REPRESENTATION

Asset Protection

**LIFETIME ASSET
PROTECTION**

**LONG-TERM CARE
ASSET PROTECTION**



Lifetime Asset Protection

TENANTS BY THE
ENTIRETY

LIFE INSURANCE

ANNUITIES

QUALIFIED PLANS AND
IRAS

PROBLEMS FOR
INHERITED IRAS

DOMESTIC ASSET
PROTECTION TRUSTS



KING | HALL
LEADING FIDUCIARY REPRESENTATION

Asset Preservation in the Long-Term Care Context



PRE-CRISIS PLANNING

USE OF MEDICAID ASSET
PROTECTION TRUSTS

USE OF VETERANS ASSET
PROTECTION TRUSTS

USE OF TRUSTS
ESTABLISHED UNDER WILLS

CRISIS PLANNING

HALF-LOAF STRATEGY

LIFE ESTATE DEEDS

Protecting the Shares of Spouses, Children, and Grandchildren



TRUST PLANNING FOR
SPOUSES

TRUST PLANNING FOR
CHILDREN AND
GRANDCHILDREN

SPENDTHRIFT PROTECTION

BENEFICIARY CONTROL?

STRUCTURING TRUSTEES

USE A TRUST PROTECTOR?

POWERS OF APPOINTMENT

SPECIAL NEEDS
BENEFICIARIES

Thank you!!

If you have any questions whatsoever, please call Barrett at:
410-696-2405, or email at
barrett@kh.legal

